

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA**

MILBANK INSURANCE COMPANY, as
subrogee of Robert and Brenda Lyke
1300 Woodland Ave
West Des Moines, IA 50265

CIVIL ACTION

NO.: 4:21-cv-04180-RAL

Plaintiff,

v.

JURY TRIAL

GREE USA, INC.
4195 Chino Hills Parkway #1026
Chino Hills, CA 91709

and

MJC AMERICA, LTD.
20035 East Walnut Drive North
City of Industry, CA 91789

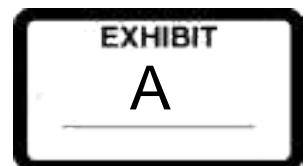
and

GREE ELECTRIC APPLIANCES, INC. OF
ZHUHAI
Jinji Road West
Qianshan Zhuhai Guang Dong, 51907 China

and

HONG KONG GREE ELECTRIC APPLIANCE
SALES, LTD.
Unit 2612 Miramar Tower
132 Nathan Road
Tsin Sha Tsui Kowloon, Hong Kong

Defendants



FIRST AMENDED COMPLAINT

1. Plaintiff, Milbank Insurance Company (“Milbank”), is an insurance company incorporated in the State of Iowa with its principal place of business located at 1300 Woodland Avenue, West Des Moines, Iowa, 50265, which, at all times material hereto, was authorized to and did regularly and systematically write property insurance in numerous states, including South Dakota.

2. Defendant Gree USA, Inc. (“Gree USA”) is a California corporation with its principal place of business located at 4195 Chino Hills Parkway #1026, Chino Hills, California 91709.

3. Defendant MJC America, Ltd. (“MJC”), is a California corporation with its principal place of business located at 20035 East Walnut Drive North, City of Industry, California 91789.

5. Defendant, Gree Electric Appliances, Inc. of Zhuhai (“Gree China”) is a Chinese corporation with its principal place of business located at Jinji Road West, Qianshan Zhuhai Guang Dong, 51907 China.

6. Defendant, Hong Kong Gree Electric Appliances Sales, Ltd. (“Gree Hong Kong”), is a Chinese corporation with its principal place of business located at Unit 2612 Miramar Tower, 132 Nathan Road, Tsin Sha Tsui Kowloon, Hong Kong.

SUBJECT MATTER JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) as plaintiffs are citizens of a different state than all named defendants and the amount in controversy, for each plaintiff, is in excess of \$75,000.00, exclusive of interests.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 as the events giving rise to plaintiffs’ claims occurred in this judicial district.

THE FIRE

6. At all times material hereto, Robert and Brenda Lyke were the owners and residents of a house located at 1111 South Cochrane Street, Aberdeen, South Dakota.
7. At all times material hereto, plaintiff Milbank provided property insurance to Robert and Brenda Lyke for their interests in the property, including the contents and the loss of use.
8. Prior to August 17, 2020, the Lykes had a Gree manufactured dehumidifier in his residence.
9. The dehumidifier in the Lyke residence (hereinafter the "Lyke dehumidifier") had been manufactured and distributed by the defendants.
10. On May 30, 2020 Lyke dehumidifier the Gree dehumidifier failed, causing a fire.
11. The fire caused smoke, flame and water damage to the real and personal property of the Lykes as well as loss of use of said property.
12. Pursuant to the policy of insurance between Milbank and the Lykes, Milbank has partially compensated them for their losses in an amount in excess of \$178,000.00
13. Milbank is subrogated, to the extent of its payments, for the interests of Robert and Brenda Lyke.

THE SETTLEMENT AND FAILURE TO TIMELY PAY THE SETTLEMENT

14. On or about March 3, 2022, Plaintiff and defendants entered into a settlement agreement whereby the defendants agree to pay Plaintiff \$125,000.00. A true and correct copy of the settlement agreement is attached hereto as Exhibit A.
15. The settlement agreement required the \$125,000.00 to be paid 90 days after transmittal of the signed release to counsel for the defendants.
16. On March 3, 2022, counsel for plaintiffs transmitted the signed release to counsel for the defendants.

17. Pursuant to the 90 day pay period in the settlement agreement, the \$125,000.00 was due to be paid to Plaintiff by June 1, 2022.

18. The defendants did not pay the settlement agreement on or before June 1, 2022.

COUNT I: BREACH OF CONTRACT

19. Plaintiff hereby incorporates by reference the allegations set forth in the foregoing paragraphs of this Complaint as though each were more fully set forth at length herein.

20. Pursuant to the terms of the settlement agreement, Defendants agreed to pay plaintiff a total of \$125,000.00 by June 1, 2022.

21. Defendants have not made the required payment.

22. The failure to pay the \$125,000.00 by June 1, 2022 constitutes a breach of the terms and conditions of the settlement agreement.

WHEREFORE, plaintiff hereby demands judgment in its favor and against defendants for damages in an amount in the amount of \$125,000.00 together with interest, costs of this action and such other and further relief as this Court deems appropriate.

Dated this ____ day of June, 2022.

Respectfully submitted,

JOHNSON JANKOW
ABDALLAH & REITER, LLP

BY: _____

Steven M. Johnson, Esquire
Shannon R. Falon, Esquire
101 S. Main Avenue, Ste. 100
Security National Centre
Sioux Falls, SD 57104
(605) 338-4304
(605) 338-4162 – fax
steve@janklowabdallah.com
shannon@janklowabdallah.com

COZEN O'CONNOR

BY _____

WILLIAM N. CLARK, JR.
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, PA 19103
PH: 215-665-4101
FAX: 215-665-2013
Email: wclark@cozen.com
ATTORNEY FOR PLAINTIFF